

## **REMARKS**

### **I. Introduction**

With the cancellation herein without prejudice of claims 1 to 10, 13, 15, 17, and 19, claims 11, 12, 14, 16, 18, and 20 to 33 are pending in the present application. It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Rejection of Claims 11 to 33 Under 35 U.S.C. § 112, Second Paragraph**

Claims 11 to 33 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 13, 15, 17, and 19 have been canceled herein without prejudice thus rendering the rejection of these claims moot. Applicants respectfully submit that claims 11, 12, 14, 16, 18, and 20 to 33 fully satisfy the requirements of 35 U.S.C. § 112 for the following reasons.

The second paragraph of 35 U.S.C. § 112 merely requires that the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. As provided in M.P.E.P. § 2173.02, the “focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph is whether the claim meets the threshold requirement of clarity and precision.” In this regard, the “essential inquiry pertaining to this requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity.” *Id.* (emphasis added). “Definiteness of claim language must be analyzed, not in a vacuum, but in light of[, inter alia, the] content of the particular application disclosure[ and the] claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.” *Id.* If the claims, when read in light of the Specification, reasonably apprise those skilled in the art both of the utilization and scope of the invention, and if the language is as precise as the subject matter permits, the second paragraph of 35 U.S.C. § 112 demands no more. M.P.E.P. § 2173.05(a) (citing Shatterproof Glass Corp. v. Libbey Owens Ford Co., 758 F.2d 613, 225 U.S.P.Q. 634 (Fed. Cir. 1985)).

The Final Office Action alleges that the term “thermosetting” in claim 11 is not clear. Applicants respectfully submit that the term “thermosetting,” in the context of a method of manufacturing a spunbonded nonwoven from a

thermoplastic polymer, reasonably clearly conveys to one of ordinary skill in the art the process of simultaneously heating and compacting the nonwoven, for example, using a heated structured calender. Withdrawal of this rejection is therefore respectfully requested.

Regarding claims 21 to 24, 26, 27, 30 and 31, the Final Office Action alleges that the modulus phrase is indefinite because it is specified in two dimensions. Applicants respectfully submit that one skilled in the art would understand that claims 21 to 24, 26, 27, 30, and 31 are referencing both the absolute value of the modulus, which has units of N/5 cm, and the specific modulus, which is the absolute value of the modulus divided by the area weight dimension. Notwithstanding the above, to expedite prosecution, claims 21 to 24, 26, 27, 30, and 31 have been amended herein without prejudice to clarify that the N/gm<sup>2</sup> units belong to the specific modulus.

The Final Office Action further rejected claims 11 and 21 on the grounds that they included language making it seem that the final product is the same as the starting material. Applicants respectfully submit that claim 11, as amended, makes clear that the spunbonded nonwoven is made from polymer fibers or filaments.

The Final Office Action further rejected claims 22, 24, 27, and 31 for limiting the fibers to a titer of 3 to 12 dtex when claim 11 already limits the fiber size to a titer of 1 to 5 dtex. Applicants respectfully submit that claim 11, as amended, which now provides the option of bonding fibers or filaments having a titer of 6 to 15 dtex by needling, is sufficiently definite. Support for this amendment to claim 11 can be found, for example, in original claim 11.

In light of the foregoing amendments and arguments, Applicants respectfully request withdrawal of the 35 U.S.C. § 112 rejection and allowance of claims 11 to 33.

### **III. Rejection of Claims 11 and 13 Under 35 U.S.C. § 102(b)**

Claims 11 and 13 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,879,170 ("Radwanski et al."). As indicated above, claim 13 has been canceled herein without prejudice thus rendering the rejection of this claim moot. Applicants respectfully submit that claim 11 is patentable over Radwanski et al. for the following reasons.

Radwanski et al. purportedly relate to a nonwoven fibrous hydraulically entangled elastic coform material and method of formation thereof. Nowhere does Radwanski et al. disclose, or even suggest, stretching the bonded fibers or filaments by up to 30% in the longitudinal direction **between individual needling stages**, as required by claim 11, as amended. Support for the amendment to claim 11 can be found, for example, in original claim 13. Radwanski et al. state that the stretching of the material is conducted after the fibers are already entangled. See col. 12, lines 30 to 44. Therefore, Radwanski et al. do not disclose, or even suggest, all of the limitations of claim 11.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). As more fully set forth above, it is respectfully submitted that Radwanski et al. do not disclose, or even suggest, all of the limitations of claim 11. Therefore, it is respectfully submitted that Radwanski et al. do not anticipate claim 11. Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejection and allowance of claim 11 are respectfully requested.

#### **IV. Rejection of Claims 14 to 20 Under 35 U.S.C. § 103(a)**

Claims 14 to 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Radwanski et al. and U.S. Patent No. 5,587,225 ("Griesbach et al."). Applicants respectfully submit that claims 14 to 20 are patentable over the cited references for the following reasons.

Nowhere does the combination of Radwanski et al. and Griesbach et al. disclose, or even suggest, stretching the bonded fibers or filaments by up to 30% in the longitudinal direction between individual needling stages, as required by claim 11, from which claims 14 to 20 ultimately depend. Griesbach et al. purportedly relates to a knit-like nonwoven composite fabric and fails to remedy the above-noted deficiencies of Radwanski et al. Nor is Griesbach et al. relied upon to remedy the above-noted deficiencies of Radwanski et al. Therefore, the combination of

Radwanski et al. and Griesbach et al. does not disclose, or even suggest, all of the limitations of claims 14 to 20.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As indicated above, the combination of Radwanski et al. and Griesbach et al. does not disclose, or even suggest, all of the limitations of claim 11. Therefore, the combination of Radwanski et al. and Griesbach et al. does not render obvious claims 14 to 20, which ultimately depend from claim 11. Withdrawal of this rejection is therefore respectfully requested.

**V. Rejection of Claims 21 to 28 and 30 to 33 Under 35 U.S.C. § 103(a)**

Claims 21 to 28 and 30 to 33 were rejected under 35 U.S.C. § 103(a) as unpatentable over Radwanski et al. Applicants respectfully submit that claims 21 to 28 and 30 to 33 are patentable over Radwanski et al. for the following reasons.

As indicated above, Radwanski et al. do not disclose, or even suggest, stretching the bonded fibers or filaments by up to 30% in the longitudinal direction between individual needling stages, as required by claim 11, from which claims 21 to 28 and 30 to 33 ultimately depend. Therefore, Radwanski et al. do not render obvious claims 21 to 28 and 30 to 33. Withdrawal of this rejection is therefore respectfully requested.

**VI. Rejection of Claims 12 and 29 Under 35 U.S.C. § 103(a)**

Claims 12 and 29 were rejected under 35 U.S.C. § 103(a) as unpatentable over Radwanski et al. Applicants respectfully submit that claims 12 and 29 are patentable over Radwanski et al. for the following reasons.

As indicated above, Radwanski et al. do not disclose, or even suggest, stretching the bonded fibers or filaments by up to 30% in the longitudinal direction between individual needling stages, as required by claim 11, from which claims 12 and 29 ultimately depend. Therefore, Radwanski et al. do not render obvious claims 12 and 29. Withdrawal of this rejection is therefore respectfully requested.

**VII. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,



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